

**SANTA MONICA MOUNTAINS CONSERVANCY**

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**Need for Action in Securing Trail Easements in the  
City of Malibu Master Trails Plan**

Dear Mr. Teruya:

The incremental assemblage of development-exacted trail easements in the City of Malibu continues to fall well-short of what would provide the best possible trail system within the City boundaries. The Coastal Act provides for the exaction of public access easements (e.g., trail easements) associated with proposed developments under certain conditions and circumstances. The Coastal Act, policies, and Local Coastal Programs (LCPs) provide the policy intent and the mechanisms for exacting these easements. Sections 30210, 30223, 30252 of the Coastal Act, policies 2.1, 2.2, 2.5 and 2.45 of the City of Malibu LCP Land Use Plan (LUP), and sections 12.5 and 12.7.4 of the Local Implementation Plan, are just some examples giving the City the authority to require trail easement dedications. In addition, local governments routinely exact trail easements for projects seeking permits or variances on a property with a General Plan-designated trail.

The City must embrace this effort, or a tremendous public benefit to the citizens of Malibu and the surrounding area will be lost, contrary to the intent and spirit of the Coastal Act. To spur such exactions to occur when appropriate, the Santa Monica Mountains Conservancy (Conservancy) makes the following recommendations regarding securing trail easements in the City of Malibu Trails Master Plan.

As Coastal Development Permit (CDP) applications are considered, it appears the City is using the fact that the General Plan has not yet been amended as an excuse to ignore the March 8, 2004 trails maps. One course of action remains for the City to address this timely issue. The City must immediately complete a General Plan Amendment to incorporate the maps recommended to be included in the initiation of a General Plan Amendment at the March 8, 2004 Council meeting, because this would ensure a vehicle is temporarily in place

to allow the exaction of all available trail easements. We acknowledge that this option would yield maps that are not perfect, and would need to be revised. A somewhat good plan in place now is better than a perfect plan later, when opportunities have been lost. If these maps are already incorporated into the General Plan, the City has all it needs to start exacting trail easements.

Simultaneously, the City should make it a top priority to make the amendments to the March 8, 2004 maps, and incorporate these into the General Plan. This would involve agendaizing it at the next Trails Advisory Committee meeting, the next subsequent Planning Commission meeting, and next subsequent Council meeting, without any delay. In this case, the City must halt processing of development permits where trails are mapped on the March 8, 2004 plan, to prevent the loss of these trail opportunities, contrary to the intent and spirit of the Coastal Act. Waiting about two years total (since the March 8, 2004 maps), is unacceptable in terms of the potential for public access opportunities that may be lost in the interim.

The following case provides a recent example of potentially a lost opportunity based on the above-described scenario. For example, in regard to CDP No. 05-099 at 5900 Bonsall Drive, the Rosemary Thyme Trail is identified on the applicant's property in the March 8, 2004 trails maps. Some residents have asserted that this trail is a well-established horse trail. However, at the January 17, 2006 Planning Commission meeting, the Commission did not require the dedication of a trail easement.

The City's staff report for this project (p. 21) states the following:

The Trails Master Plan adopted includes a trail through the subject property. However, this Plan does not include a mechanism by which to acquire easements for trails. Furthermore, the Trails Master Plan is a component of the General Plan, which has not been amended to include the updated Trails Master Plan. The Malibu/Santa Monica Mountains Area Plan Trail System in the General Plan Open Space and Recreation Element (see Figure OS-2) does not include the subject trail. Once the General Plan has been updated to incorporate the new Trails Master Plan, and appropriate tools are provided to acquire trail easements, the City may pursue implementing a trail through the applicant's property.

The City is losing one or more opportunities to implement the envisioned trail system. The City must take action now to prevent the loss of this Rosemary Thyme Trail and to prevent

other similar scenarios. It is a development applicant's responsibility to be aware of General Plan documents with adopted trails. We know this trail has been contemplated, as it is on the March 8, 2004 maps, whether or not the City Council has technically incorporated it in as a General Plan Amendment. These trail segments, even if they are considered small, are part of the larger trail system, and the loss of one small segment can ruin an entire trail.

The fact that the applicant for the subject CDP No. 05-099 on Bonsall Road has requested variances makes the case for a requirement for a trail easement dedication that much stronger.

### **Need to Secure Trail Easements That Actually Can Be Implemented and Enforced**

When the City does require trail easement dedications, or offers to dedicate trail easements, the requirements should be designed so that the trail can actually be built safely and in the least destructive manner as possible with a grade useable by most people and that minimizes maintenance. This includes flexibility for the people designing and constructing the trail to adjust to the topography and sensitive resources on the property, and to allow flexibility to connect to other potential segments on adjacent property, which may also have site constraints (e.g., geological). We have seen cases where a required easement on paper may not be feasible or preferable, for example with respect to safety issues, and with respect to maximizing consistency with interagency trail standards. These trail easements should connect to areas with the maximum potential to extend the trail system, for example to public roadways, or to other undeveloped properties.

One approach is for the City is to require an offer to dedicate or to require an actual trail easement for a wider area (e.g., 50-100 feet in width). Later, when the trail is actually constructed, the final easement can be made more narrow. In other cases where a specific elevation is chosen, for example for the downhill limit of the easement, it may be prudent to required to easement from that elevation line, uphill to the edge of the property boundary. Also, it is prudent in some cases to require conservation easements adjacent to the trail easements to ensure the integrity of the trail experience is preserved.

The Conservancy applauds the Planning Commission's and the applicant's efforts to propose a feasible north-south trail on the property on CDP Nos. 05-013 and 05-017 (22303 and 22307 Pacific Coast Highway, east of Sweetwater Mesa Road). Originally, no north-south connector trail was proposed, even though this trail is shown on the March 8, 2004 trails maps. In a later iteration, a narrow 20-foot wide trail easement was proposed at the

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western property boundary (with no regard for topographic constraints), which dead-ended to the back of a developed property. We appreciate the Planning Commission's efforts to require a feasible trail easement to be coordinated with NPS.

Finally, it is critical that the language in the conditions of approval be enforceable. A condition that states simply: "The applicant has offered to dedicate a...trail easement..." as was done for CDP Nos. 05-016 and 05-017 is not adequate, and raises questions as to its enforceability.

We reiterate in this letter some comments previously provided to the City (August 30 and September 14, 2004 letters, attached) on the Negative Declaration of the General Plan Amendment for revised trail maps (dated March 8, 2004) from the Trails Master Plan.

Thank you for your serious consideration of these comments. We look forward to working with the City pursuant to Policy 2.9 in the LUP to implement these recommendations. If you have any questions, or would like to discuss further, please contact Paul Edelman, Deputy Director of Natural Resources and Planning by phone at (310)-589-3200, ext. 128.

Sincerely,

ELIZABETH CHEADLE  
Chairperson